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SENATE

{ REPORT
No. 3

AMENDING SECTION 215 OF TITLE 18 OF THE UNITED STATES CODE

JANUARY 17 (legislative day, JANUARY 8), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 15]

The Committee on the Judiciary, to which was referred the bill (S. 15) to amend section 215 of title 18 of the United States Code, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to make it an offense for an individual or a private employment agency to solicit or accept fees for referring persons for employment by the United States.

HISTORY OF THIS LEGISLATION

Legislation to accomplish the end desired in this bill has been pending before the past several Congresses. In the Seventy-ninth Congress, S. 1714 passed the Senate unanimously on April 12, 1946. In the Eightieth Congress, S. 22 passed the Senate unanimously on January 27, 1947. In the Eighty-first Congress, S. 15 passed the Senate unanimously on February 8, 1949. The subject matter of each of these bills was identical (except for necessary technical change) with this bill.

STATEMENT

Under existing law it is a criminal offense for anyone to solicit or receive any money or thing of value for promising to support or to use influence in behalf of an applicant for a position under the Government

of the United States. In the past, private employment agencies have solicited and received fees for submitting the names of prospective employees to an appointing officer of the Government. Enactment of this proposed bill will make certain that the acceptance or soliciting of such fee by a private employment agency is illegal. The mere statement of the proposition shows the fallacy of permitting persons employed by the Government to be charged any fee for the mere act of submitting his or her name. A more detailed justification for the enactment of the bill will be found in the letter of December 14, 1945, from the United States Civil Service Commission to Senator McKellar, who was, at that time, President pro tempore of the Senate. Such letter is hereto attached and made a part of this report.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., December 14, 1945.

HON. KENNETH MCKELLAR,
President pro tempore of the Senate,
United States Senate, Washington, D. C.

DEAR MR. MCKELLAR: The Civil Service Commission desires to submit for your consideration a draft of a proposed bill amending the act of December 11, 1926 (44 Stat. 918), which is an act designed to prohibit the purchase and sale of public office. The Commission's proposed bill would make it an offense for a private employment agency to solicit or accept fees for referring persons for employment by the Government of the United States.

Under existing law it is a criminal offense punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both, for anyone to solicit or receive any sum of money or thing of value for promising to support or to influence in behalf of an applicant for a Government position (18 U. S. C. 149, 150, 151). It is doubtful, however, whether the terms of any of these laws are such as to make it unlawful for a private employment agency to solicit or receive a fee for submitting the names of clients to an appointing officer of the Government. An enactment of the proposed bill would eliminate this doubt by expressly providing that such practices are unlawful.

The Commission in recent years has received a number of complaints with respect to the practices of charging of fees by private or commercial employment agencies for referrals to Federal positions. Government agencies and the employees concerned feel that Government employees should not be required to pay any fee for securing Federal employment. Under some contracts with private employment agencies the employees are required to pay a stipulated fee upon placement irrespective of whether the private agency actually assists in making such placement. Although most Government agencies believe that citizens should not pay a fee for securing Federal employment, they are placed in an embarrassing position when private employment agencies complain of nonpayment under a contract because the agencies have already circularized their employees regarding the necessity of paying debts and obligations.

Your attention is invited to the following statutes, which are in a way involved in this situation:

"SECTION 1. That each individual hereafter appointed as a civil officer of the United States by the President, by and with the advice and consent of the Senate, or by the President alone, or by a court of law, or by the head of a department, shall, within thirty days after the effective date of his appointment, file with the Comptroller General of the United States an affidavit stating that neither he nor anyone acting in his behalf has given, transferred, promised, or paid any consideration for or in the expectation or hope of receiving assistance in securing such appointment (44 Stat. 918, December 11, 1926, as amended March 2, 1927, 44 Stat. 1346)."

"SEC. 1. That it shall be unlawful to pay or offer or promise to pay any sum of money, or any other thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence, whatsoever, to procure any appointive office under the Government of the United States for any person whatsoever.

"SEC. 2. It shall be unlawful to solicit or receive from anyone whatsoever, either as a political contribution, or for personal emolument, any sum of money or thing of value, whatsoever, in consideration of the promise of support, or use of influence, or for the support or influence of the payee, in behalf of the person

paying the money, or any other person, in obtaining any appointive office under the Government of the United States.

"Sec. 3. Anyone convicted of violating this act shall be punished by imprisonment of not more than one year, or by a fine of not more than \$1,000, or by both such fine and imprisonment.

"Sec. 4. All Acts and parts of Acts inconsistent herewith are hereby repealed" (44 Stat. 918; December 11, 1926; U. S. C., Title 18, Secs. 149, 150, 151.

The act of March 2, 1927, is applicable only to officers as distinguished from employees. It is doubtful that this statute can be construed as prohibiting the payment of a fee to a private employment agency by an employee whose name had been submitted to the appointing officer by such agency. If the private employment agency does not attempt to use "influence" in behalf of the person whose name they have referred, it is doubtful that the act of December 11, 1926, prohibits the payment of any fee stipulated in the agency's contract. We are unable to find any statute which specifically prohibits a Government agency from utilizing the services of a private employment agency in securing personnel or any statute which prohibits a private employment agency from accepting a fee from persons whom it assists in securing Federal employment. Of course, in both instances the Commission feels that the practices are contrary to public policy.

The Commission is of the opinion that legislation to correct the present fee-charging practices of private employment agencies in securing Federal employment is very desirable and would definitely be in the public interest. During the war there was a great opportunity for private employment agencies to collect fees from persons receiving Federal employment because of the large number of persons employed in the war program. With this in mind the Commission in 1942 brought this matter to the attention of Congress. A bill, H. R. 1209, Seventy-eighth Congress, first session, was actually introduced. However, unfortunately, this bill was never enacted as law.

In the final analysis the practice of private employment agencies charging fees for Government employment is even more undesirable in peacetime, when jobs are scarce and many veterans are seeking placement in the Federal service. This would be especially true in the case of recently discharged veterans and doubly true in the case of those discharged veterans who, by reason of their youth at the time of their entry in the Armed Forces, had not previously held positions and thus are extremely interested in securing employment.

There is no question that the public is justified in criticizing the practices of these fee-charging agencies as they now exist. Inasmuch as there is already a statute designed to prohibit the purchase and sale of public office (act of December 11, 1926, 44 Stat. 918) the Commission believes that the most appropriate method of prohibiting the acceptance of fees by private employment agencies for referral to Government positions is the enactment of an amendment to this statute. Accordingly, there is attached hereto for your consideration a draft of a proposed bill amending section 2 of the act of December 11, 1926. The Commission requests that the proposed bill be referred to the appropriate committee for consideration.

The Commission has already referred this matter to the Director of the Bureau of the Budget and has been advised that there is no objection to the submission of this proposal to the present Congress.

Very respectfully,

HARRY B. MITCHELL, *President.*

At the request of a previous committee considering similar legislation the Attorney General in the following letter dated February 19, 1946, presented his views and recommendation:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., February 19, 1946.

Hon. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for my views relative to a bill (S. 1714) to amend the act entitled "An act to prevent purchase and sale of public office," approved December 11, 1926 (44 Stat. 918).

Existing law makes it an offense to pay or offer or promise to pay for the use of influence in procuring an appointive office under the Government of the United

States, or to solicit or receive compensation for the use of influence or support in obtaining such appointive office (18 U. S. C. 149-151).

The bill under consideration would amend the existing law by the addition of a subsection prohibiting persons, firms, or corporations from receiving compensation for aiding or assisting any person to obtain appointive office or employment under the United States Government either by referral of such persons name to any Department or establishment of the Government of the United States, or otherwise. It would also broaden prohibitions of the existing law by making it an offense to exact a fee from any person because such person has obtained Federal employment.

Further, under the proposed language, the solicitation or receipt of compensation, either on behalf of the solicitor or another, would be prohibited, whereas the existing law merely prohibits the solicitation or receipt of compensation, either as a political contribution or personal emolument on behalf of the solicitor himself. The objectives of the measure appear desirable and the enactment of the bill would facilitate the enforcement of the present statute.

I find no objection to the enactment of the measure.

I have been advised by the Director of the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

TOM C. CLARK, *Attorney General.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SEC. 215. ACCEPTANCE OR SOLICITATION TO OBTAIN APPOINTIVE PUBLIC OFFICE.

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Whoever solicits or receives any money or thing of value in consideration of aiding any person to obtain any appointive office or place under the United States either by referring his name to any executive department, agency, or independent establishment of the United States for consideration, or otherwise, or by requiring the payment of a fee from any person because such person has secured any appointive office or place under the United States shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

